

B. CLAIM REJECTIONS UNDER 35 U.S.C. § 112

Claims 12 and 13 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter Applicants regard as their invention. Claim 12 has been amended herein to more particularly point out the claimed invention. Claim 13 depends from Claim 12. The Examiner also indicated that "panelboards" lacked antecedent basis. The Applicants respectfully disagree. The Applicants refer Examiner to Claim 1, which states in pertinent part the following: "at least one panelboard." In light of the amendments to Claim 12, it is believed that the Examiner's rejection of Claims 12 and 13 has been overcome. Thus, for at least this reason Claims 12 and 13 are believed to be in condition for allowance.

C. CLAIM REJECTIONS UNDER 35 U.S.C. § 102

Claims 1, 4, 6-10, 12, 14, 17 and 19-21 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 5,070,429 to Skirpan ("Skirpan '429"). The Applicants respectfully disagree. An anticipation rejection under 35 U.S.C. § 102(b) requires that the reference teach every element of the claim. See MPEP § 2131 (2001).

For example, Claim 1 requires a plurality of structural members attached to the panelboard to form the frame structure that includes the panelboard. The Examiner contends that Skirpan '429 discloses "a plurality of structural members (see Figure 3) attached to the panelboard (see Figure 6), thereby forming a frame structure (see figure 3) including the panelboard (see figure 6)." See Office Action, pg. 3, section 3. However, Skirpan '429 does not disclose or suggest a plurality of structural members attached to the panelboard to form the frame structure that includes the panelboard. Rather, the frame structure in Skirpan '429 is formed solely by the four corner rails 12 being interlocked with the end frames 11 to provide a cabinet frame for reception of panels 13, 14, 15, and 17, and does not include a panelboard as part of the frame structure. See Skirpan '429 col. 7, ll. 55-59, and Figure 3. Moreover, the panelboard disclosed in Skirpan '429 is independent of the frame structure, as illustrated in Figure 6 of Skirpan '429. Thus, for at least this reason, Claim 1 is believed to be allowable over Skirpan '429. Because Claims 4, 6-10, and 12 all ultimately depend from Claim 1, for at least this reason they are also believed to be allowable.

Similarly, Claim 14 requires a means for incorporating a panelboard into a frame structure for the remote distribution cabinet. As previously mentioned, the frame structure in Skirpan '429 is formed solely by the four corner rails 12 being interlocked with the end frames 11 to provide a cabinet frame for reception of panels 13, 14, 15, and 17, and does not include a panelboard being incorporated as part of the frame structure. See Skirpan '429 col. 7, ll. 55-59, and Figures 3 and 6. Thus, for at least this reason, Claim 14 is believed to be allowable over Skirpan '429. Because Claims 17 and 19-21 all ultimately depend from Claim 14, for at least this reason they are also believed to be allowable.

Regarding Claims 6 and 19, Claims 6 and 19 require an access panel that is adjustable to allow for a shift in the position of the circuit breakers within the panelboard. The Examiner indicated that Skirpan '429 discloses an access panel (21) that is adjustable to allow for a shift in the position of the circuit breakers (23) within the panelboard. The Applicants respectfully disagree. Item 21 of Skirpan '429 is a hinged panel door 21. Nowhere is the Skirpan '429 reference does it indicate the door 21 is adjustable to allow for a shift in the position of the circuit breakers. It is therefore believed that for at least this reason Claims 6 and 19 are allowable.

Regarding Claims 8, 9 and 20, Claims 8, 9 and 20 require a tie-breaker for providing power from one of a plurality of sources to one or more panelboards. The Examiner indicated that Skirpan '429 discloses a tie-breaker for providing power from one of a plurality of sources to one or more panelboards. The Applicants respectfully disagree. Nowhere in the Skirpan '429 reference does it disclose or suggest a tie-breaker. It is therefore believed that for at least this reason Claims 8, 9 and 20 are allowable.

Regarding Claim 10, Claim 10 requires a current monitoring unit arranged to measure the current of each panelboard. The Examiner indicated the Skirpan '429 discloses a remote distribution cabinet where a monitoring unit may be arranged to measure the current of said at least one panelboard. The Applicants respectfully disagree. Nowhere in the Skirpan '429 reference does it disclose or suggest a current monitoring unit. It is therefore believed that for at least this reason Claim 10 is allowable.

Regarding Claim 12, Claim 12 has been amended herein in order to more particularly point out the claimed invention. Amended Claim 12 requires an access panel separately cover each of the panelboards, wherein when the access panel is removed, service can be performed on the at least one panelboard without exposing other energized components of the remote

distribution cabinet. Skirpan '429 does not disclose or suggest this limitation. It is therefore believed that for at least this reason Claim 12 is allowable.

D. CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 2, 3, 5, 11, 13, 15, 16, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over various prior art references. As previously mentioned, independent Claims 1 and 14 are believed to be allowable. Because dependent Claims 2, 3, 5, 11, 13, 15, 16, and 18 all ultimately depend from either Claim 1 or Claim 14, for at least this reason they are also believed to be allowable.

The Applicants point out that establishment of a *prima facie* case of obviousness requires 1) that there be some suggestion or motivation to modify the reference or to combine reference teachings; 2) that there be some reasonable expectation of success; and 3) that references individually or in combination teach or suggest all the claim limitations. Moreover, it is well settled that "[c]ombining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight." See *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999). Further, the showing of a suggestion or motivation to combine the references "must be clear and particular." *Id.* "Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" *Id.*

The Examiner indicated that Claims 5, 13, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Skirpan '429 in view of U.S. Patent 5,202,538 to Skirpan ("Skirpan '538"). The Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness, and therefore, the rejection is improper. Claims 5, 13, and 18 all require that the access panel allow for *visual inspection of the circuit breakers* without opening the access panel. (emphasis added) The Examiner stated that "Skirpan discloses a remote distribution cabinet (10) having an access panel (251) that allows visual inspection of *some electrical components* inside the cabinet without opening the access panel (column 13 line 16-25)." See Office Action, pg. 6 (emphasis added). Skirpan '538 has circuit breakers mounted above the transparent cover 251. The transparent cover 251 in Skirpan '538 covers and allows a worker to view the lugged cables 300, busses 110, 156 and ground connection 160. See Skirpan '538 Figure 9, and Col. 13, ll. 23-25. Nothing in either Skirpan '538 or Skirpan '429 suggests or

discloses that the transparent cover could be used to cover the circuit breakers. Moreover, it is well accepted that in determining obviousness of a claim, even if a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." *In re Mills*, 916 F.2d 680, 682, 16 U.S.P.Q. 2d 1430, 1432 (Fed. Cir. 1990), *see also* MPEP § 2143.01 (2001).

The Applicants respectfully submit that the Examiner has failed to give a motivation or suggestion to modify Skirpan '538 or to combine the references' teachings to include the Applicants' claim limitations. Moreover, neither Skirpan '429 nor Skirpan '538 individually or in combination teach or suggest each limitation of Applicants' claims. Thus, for at least any one of these reasons, Claims 5, 13 and 18 are believed to be allowable.

The Examiner rejected Claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Skirpan '429 in view of U.S. Patent 5,784,249 to Pouliot ("Pouliot '249"). Claim 11 requires at least one main circuit breaker for each panelboard. The Applicants respectfully submit that the Examiner has failed to give a suggestion or motivation to combine the teachings of Skirpan '429 and Pouliot '249. Moreover, because Skirpan '429 is designed to allow plug connectors on the top panel to provide the power source to the branch circuits, and because disconnection of the power source can be easily achieved by removing the plug connector from the receptacle, there is no need for a main circuit breaker in Skirpan '429. *See* Skirpan '429 Figures 6 – 6b and Col. 10, ll. 4-12. Thus, the references teach away from their combination. For at least any one of these reasons, Claim 11 is believed to be allowable.

The Examiner rejected Claims 2 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Skirpan '429 in view of U.S. Patent 6,430,882 to Feldpausch et al. ("Feldpausch '882"). Claims 2 and 15 require a bottom member that is sized to allow the remote distribution cabinet to fit within a raised floor tile space. Feldpausch '882 discloses a utility post designed to dispense various utilities, nowhere in the reference does it suggest using a power distribution cabinet for the utility post. The Applicants respectfully submit that the Examiner has again failed to provide a suggestion or motivation to combine the Skirpan '429 and Feldpausch '882 references. The Examiner merely made conclusory statements regarding the Applicants' claims in reference to the references. For at least any one of these reasons, Claims 2 and 15 are believed to be allowable.

The Examiner rejected Claims 3 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Skirpan '429 in view of Feldpausch '882 as applied in claim 2 and 15, respectively, and in further view of U.S. Patent 4,536,612 to Domigan ("Domigan '612"). Claims 3 and 16 require a junction box be attached to the bottom member so as to be disposed beneath a raised floor. Domigan '612 discloses a junction box coupled to the underside of a floor panel, the junction box having communication connections and receptacles. Nowhere in any of the references do Domigan '612, Skirpan '429 or Feldpausch '882 suggest their combination nor the modification proposed by the Examiner. The Applicants respectfully submit that the Examiner has again failed to provide a suggestion or motivation to combine the Skirpan '429, Feldpausch '882, and Domigan '612 references. The Examiner merely made conclusory statements regarding the Applicants' claims in reference to the references. For at least any one of these reasons, Claims 3 and 16 are believed to be allowable.

E. CONCLUSION

Based on the foregoing, the Applicants believe that Claims 1-21 are allowable over the prior art of record.

The undersigned representative authorizes the Commissioner to charge any fees that may be required or credit any overpayment to Deposit Account No. 01-2508, referencing Order No. 11564.0050.NPUS01.

To facilitate the resolution of any issues or questions presented by this paper, Applicants authorize the Examiner to directly contact the undersigned by telephone.

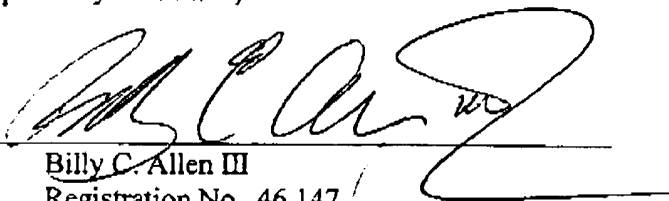
To promote the prosecution of this application, Applicants also authorize the Examiner to contact the undersigned attorney by electronic mail. Please address all e-mail to: allenb@howrey.com.

Respectfully submitted,

Date:

01/24/03

By



Billy C. Allen III

Registration No. 46,147

HOWREY SIMON ARNOLD & WHITE, LLP

750 Bering Drive

Houston, Texas 77057-2198

Telephone: (713) 268-1388

Facsimile: (713) 787-1440

Attorney for Applicants